

## REMARKS

Claims 1-10, 14-16, 18-23 and 57-62 and 64-67 are currently pending. Claim 67 is new. Claims 1-2, 57-60, 62 and 64-65 have been amended without admission, prejudice or disclaimer. Claim 63 has been canceled. Claims 24-56 were previously withdrawn.

The amendments to claims 1 and 57 regarding the moveable indicator and the band being moveable along “predetermined paths” are based on the disclosures in ¶[37] and [39] at pp 6-7 of the Specification.

The amendments to claims 2 and 58 regarding allowing the player to control movement of the indicator or display device “to at least one specific position selected by the player” are based on the disclosures in ¶[133] at page 31 and ¶[141]-[145] at pp 32-33 of the Specification.

The amendments to claims 59 and 60 are to reword the claims to be consistent with apparatus claim terminology rather than the previous “method” claim phrasing.

The amendment to claim 62 is based on claim 63 (now canceled); additional wording regarding allowing the player to control movement of the indicator or display device “to at least one specific position selected by the player” is based on the disclosures in ¶[133] at page 31 and ¶[141]-[145] at pp 32-33 of the Specification.

The amendments to claims 64-65 are to provide appropriate antecedent bases with newly amended parent claim 62 and to reword the claims to be consistent with apparatus claim terminology rather than the previous “method” claim phrasing.

New claim 67 is based on wording in previous claim 57 (now amended) and original claim 40 (previously withdrawn).

### 1. Brief Review of One Embodiment of the Present Invention.

In one embodiment of Applicants' invention, a gaming device includes a housing with several walls that define a cavity. A moveable indicator is associated with the housing and is moveable along a first predetermined path. A moveable indicator actuator is configured to move the moveable indicator in a linear manner along a first axis. A display device is associated with the housing. The display device includes a band, moveable along a second predetermined path, and displaying indicia. A display device actuator is configured to move the band in a linear manner along a second axis, the second axis being orthogonal to the first axis. A controller is in communication with the display device actuator and the moveable indicator actuator. The controller determines a game outcome and directs movement of the moveable indicator and the band.

**2. Rejection of claims 1-10, 14-16, 18-23 and 57-66 as being unpatentable over Nordman (U.S. Patent No. 6,712,694) in view of Brown (U.S. Patent No. 5,673,504).**

Previous claims 1-10, 14-16, 18-23 and 57-66 were rejected as being unpatentable under 35 U.S.C. §103(a) over Nordman in view of Brown. Applicants respectfully traverse this rejection.

Currently amended independent claims 1 and 57 require that the moveable indicator and the display device move along predetermined paths. Neither Nordman nor Brown, either alone or in combination disclose or suggest the claimed invention.

In the Advisory Action of November 5, 2008, the Office contends that Applicants' previous argument that Nordman fails to teach player input devices that allow the player to dictate the position of the band or indicator are not commensurate in scope with the pending claims, since the input devices have some effect on movement, but only "start the game and start movement of the band." The Office acknowledged that if Applicant amended the claims to

correspond to this (aforementioned) argument, then this would distinguish over the current rejection based on Nordman and Brown.

Accordingly, Applicants have amended independent claim 62 and dependent claims 2 and 58 to include wording where the input device allows the player to control movement “to at least one specific position selected by the player.” This clearly states that the player may control the actual “position” of the band or indicator, not merely start movement of the band or indicator. Support for the amendment is provided in ¶[133] at page 31 and ¶[141]-[145] at pp 32-33 of the Specification. Specifically:

¶[133] @ p 31 “The player may be allowed to control the movement of indicator 250 using input device 222. For example, in the device depicted in figure 7, the player may be allowed to move the indicator left and right, and to *stop the indicator at a desired location.*” (*emphasis added*)

¶[144] @ p 33 “At step 714, one or more player input devices are activated that allow a player to *select one or more specific indicator positions.*” (*emphasis added*)

¶[145] @ p 33 “Once the player has provided input, method 700 proceeds to step 718 and *moves indicator 250 to the position selected by the player.*” (*emphasis added*)

Accordingly, Applicants respectfully submit that a *prima facie* case of obviousness has not been established regarding independent claims 1, 57 and 62 since “... all the claim limitations must be taught or suggested by the prior art ...” (see MPEP 2143.03). Therefore, Applicants respectfully submit that currently amended independent claims 1, 57 and 62 (and corresponding dependent claims) are non-obvious over Nordman in view of Brown.

**CONCLUSION**

For all of the above reasons, Applicants respectfully submit that the present application is in condition for allowance. If the Examiner has any questions regarding the application or this response, the Examiner is encouraged to call Applicant's attorney, Ian F. Burns, at (775) 826-6160.

Respectfully submitted,

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